

Notice of Allowability

Application No.

09/530,815

Examiner

Judy M. Reddick

Applicant(s)

LOTH ET AL.

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Appellant's Appeal Brief(006/01/04) + Telephonic Interview(08/20/04).
2. ☒ The allowed claim(s) is/are 6-16 and 18-26.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Stephen D. Harper on 08/21/04.

The application has been amended as follows:

IN THE CLAIMS

In claim 6 @ line 6, "selected from the group consisting of fatty acids, fatty alcohols and derivatives thereof and having a molecular weight between 300 and 1,500 and wherein said at least one fatty compound is not polyalkylene oxides and/or oleochemical derivatives of polyalkylene oxides" has been inserted after "plasticizer".

In claim 6 @ line 8, "and pigments" has been inserted after "fillers".

In claim 6 @ line 9, "one or more" has been inserted before "auxiliaries".

In claim 11 @ line 1, "additionally" has been deleted.

In claim 11 @ line 2, "said" has been inserted between "of" and "one".

In claim 13 @ line 1, "comprising" has been deleted and "wherein said fatty compound is" has been inserted in its stead.

In claim 14 @ line 1, "comprising" has been deleted and "wherein said fatty compound is" has been inserted in its stead.

In claim 16 @ lines 1-2, "comprising a copolymer comprising" has been deleted and "wherein said copolymer comprises" has been inserted in its stead.

Claim 17, in its entirety, has been cancelled.

In claim 19 @ line 7, "and having a molecular weight between 300 and 1,500 and wherein said at least one fatty compound is not polyalkylene oxides and/or oleochemical derivatives of polyalkylene oxides" has been inserted after "thereof".

In claim 19 @ line 9, the ".", after "weight", has been deleted and a ";" has been inserted in its stead.

In claim 21 @ line 1, "comprising" has been deleted and "wherein said fatty compound is" has been inserted in its stead.

In claim 23 @ lines 1-2, "comprising a copolymer comprising" has been deleted and "wherein said copolymer comprises" has been inserted in its stead.

In claim 25 @ line 5, "if necessary," has been deleted.

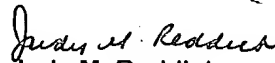
2. The following is an examiner's statement of reasons for allowance: After further consideration coupled with the amendments to the claims, the instantly claimed invention is deemed allowable over the prior art of record, Reinhard et al(U.S. 3,551,374), meritorious of the closest prior art, as per said art neither anticipating nor rendering obvious the polyacrylate jointing compound, as claimed. One having ordinary skill in the art would not have been endowed with any motivation to extrapolate, from the disclosures of any of the prior art of record, the precisely defined jointing compound, as claimed, with any reasonable expectation of success. More specifically, one having ordinary skill in the art would not been endowed with any motivation to modify the caulking and sealing compositions of Reinhard et al to include a fatty compound, as claimed, with any reasonable expectation of success.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judy M. Reddick whose telephone number is (571)272-1110. The examiner can normally be reached on Monday-Friday, 6:30 a.m.-3:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Judy M. Reddick
Primary Examiner
Art Unit 1713

JMR 
08/21/04